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BOARD OF PHARMACY

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE LICENSE OF

John W. Kakowksi, R.P.
License No.: 28RI03391400

TO PRACTICE PHARMACY IN THE
STATE OF NEW JERSEY

INTERIM CONSENT ORDER OF VOLUNTARY SURRENDER OF LICENSE

This matter was opened to the New Jersey State Board of Pharmacy ("the Board") upon the receipt of information that John W. Kakowski, R.P. ("Respondent") was arrested on January 8, 2015 and charged with tampering and theft of movable property. Respondent allegedly removed injectable morphine, fentanyl and hydromorphone from the hospital at which he was employed for his own use on multiple occasions, without a valid prescription and without reimbursing the hospital for the medication.

The allegations, if proven, would demonstrate that Respondent has engaged in professional misconduct; engaged in the use of employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense; engaged in acts constituting crimes of moral

turpitude and crimes which relate adversely to the practice of pharmacy; and is presently engaged in drug or alcohol use that is likely to impair the ability to practice pharmacy with reasonable skill and safety, in violation of N.J.S.A. 45:1-21(b)(e) (f) and (l).

It appearing that respondent wishes to voluntarily enter into an interim agreement without making admissions and without prejudice to respondent's ability to defend the allegations against him; and the Board finding the within disposition adequately protective of the public health, safety and welfare, and other good cause having been shown;

ACCORDINGLY, IT IS on this 19th day of February, 2015,

ORDERED THAT:

1. Respondent is hereby granted leave and shall immediately surrender his license to practice pharmacy in the State of New Jersey pending resolution of the criminal charges and until further Order of the Board.

2. Respondent shall immediately surrender his original wall certificate and wallet certificate and all renewal cards of his license to Anthony Rubinaccio, Executive Director, Board of Pharmacy, P.O. Box 45013, 124 Halsey Street, Newark, New Jersey 07101.

3. Respondent shall immediately cease and desist from engaging in the practice of pharmacy, including the following: respondent shall not handle, order, inventory, compound, count, fill, refill or dispense any drug; shall not handle anything requiring a prescription including devices and medications; shall not handle prescriptions; shall not advise or consult with any patient, and is prohibited from being present within the prescription filling area of any pharmacy.

4. Respondent shall immediately enroll in and comply fully with the monitoring program established for him by the Professional Assistance Program of New Jersey (PAP). Such monitoring program shall include but not be limited to:

a. Absolute abstinence from all psychoactive substances including alcohol unless prescribed by a treating health care professional for a documented medical condition and with notification from the treating health care professional to the executive medical director of the PAP of the diagnosis and treatment regime within five days of issuing the prescription. Respondent shall advise all of his treating health care practitioners, who prescribe medications, of his addiction history and shall be responsible to ensure that the treating health care professional notifies the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription. Respondent shall also personally notify the PAP of any prescription for a psychoactive substance within five days of issuance of the prescription.

b. Successful completion of an approved treatment program under the supervision of the PAP, including but not limited to enrollment in an inpatient treatment facility if deemed necessary by the PAP.

c. Respondent shall attend support group meetings of Alcoholics Anonymous at a frequency to be determined by the Executive Director of the PAP. Respondent shall provide evidence of attendance at such groups directly to the PAP on a form or in a manner as required by the PAP.

d. Respondent shall undergo random urine monitoring under the supervision of the PAP on an unannounced basis, at a frequency to be determined by the PAP. All test results shall be provided in the first instance directly to the PAP and any positive result shall be reported immediately by the PAP to the Executive Director of the Board. Any failure by Respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be an act of non-compliance with the terms of this Order absent an excuse satisfactory to the PAP.

e. The Board reserves the right to require a modification of the manner of the random witnessed urine testing by the PAP in the event technical developments or individual requirements indicate that a different methodology or approach is required to guarantee the accuracy and reliability of the testing.

f. Respondent's failure to submit to or provide a urine sample within twenty-four hours of a request shall be deemed to be the equivalent of a confirmed positive urine test and shall be deemed a violation of this Order unless Respondent is unable to appear for a scheduled urine test due to illness or other impossibility. Respondent must advise the Board in writing within two (2) days, and cause the PAP to so advise the Board in writing within (2) days, of a claimed illness or impossibility. If Respondent fails to appear for a scheduled urine test due to illness, Respondent shall provide to the Board, written substantiation of the illness in the form of a physician's report, within two (2) days. "Impossibility" means an

obstacle beyond the control of Respondent that is insurmountable or that makes his appearance for the urine test so infeasible that a reasonable person would waive Respondent's requirement to give the urine sample that day.

g. All random witnessed alcohol and drug screens shall be negative for the presence of alcohol or drugs, unless the drugs detected by screening were taken for a documented illness or medical condition pursuant to a valid prescription from a health care practitioner aware of Respondent's substance abuse history. All positive results shall be confirmed by the Gas Chromatography Mass Spectrometry (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

h. Any urine test result showing creatinine levels below 20 mg/dl and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test, and shall be followed by a confirming test. The method of the confirming test shall be determined by the PAP.

i. Respondent shall become familiar with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Respondent specifically agrees that ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

j. Respondent shall submit to continued monitoring by the PAP and shall meet with the PAP on a face-to-face basis at least once a month. Respondent agrees that the PAP shall advise the Board immediately in the event it receives information or evidence of noncompliant behavior and/or further relapse.

k. Respondent shall be responsible to ensure that the PAP shall supply reports every ninety (90) days beginning on the "filed" date of this Order to the Board regarding her progress with the monitoring program.

l. Respondent shall obtain the agreement of the PAP via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any noncompliant behavior, slip or relapse of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the PAP rehabilitation program whether initiated by Respondent or by the PAP.

m. Respondent expressly waives any claim to privilege or confidentiality that he may have concerning reports and disclosures to the Board, and use by the Board of that information in any license proceedings, including

reports and disclosures by the urine monitoring program, or the PAP, or any other person or entity involved in his rehabilitation program.

n. All costs associated with the monitoring outlined above shall be the responsibility of, and paid directly by, Respondent.

5. Prior to Board consideration of any petition for reinstatement of his New Jersey license, Respondent shall:

a. At the discretion of the Board, appear before the Board or a committee thereof to demonstrate his competency to reenter the practice of pharmacy.

b. Provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare and that he is not then suffering from any impairment or limitation resulting from the use of any addictive substance which could affect his practice.

c. Provide the Board with complete treatment records of all diagnostic and rehabilitative therapy and an in-depth, current evaluation from a psychiatrist or psychologist knowledgeable in addiction therapy. In addition, Respondent shall provide reports from each and every mental health professional (including, but not limited to: psychologists, psychiatrists, counselors, and therapists) who have participated in respondent's care and/or treatment during the period of time from the date the within Order is filed to his appearance before the Board or a committee thereof to discuss his readiness to reenter practice as a pharmacist.

d. Provide the Board with a report from the PAP detailing the nature and extent of his involvement with that entity.

e. Provide the Board with documentation of no less than six continuous months of random witnessed alcohol and drug screens which shall be negative for the presence of alcohol or drugs, as described above.

f. Provide the Board with a full account of his conduct during the intervening period of time from the entry of this Order to his appearance pursuant to this Order.

g. Provide documentation of successful completion of all continuing education credits required by N.J.A.C. 13:39-3A.1- 13:39-3A.7.

h. Provide documentation of successful completion of all application requirements including a Criminal History Background Check and payment of all

reinstatement fees

6. The Board reserves the right to place restrictions and/or limitations upon Respondent's license to practice as a Pharmacist in the State of New Jersey in the event that his license is reinstated.

7. Nothing herein shall preclude the Board from initiating disciplinary action based upon the conduct relating to Respondent as alleged above. The entry of the within Order is without prejudice to the further investigation and/or prosecution of any violations by respondent of any statutes or regulations governing the practice of pharmacy in the State or any violations of law, by the Board, the Attorney General or any other regulatory or law enforcement agency, including but not limited to any pending matters under investigation. This is an interim order that does not preclude the Board from taking disciplinary action on the alleged conduct detailed herein.

NEW JERSEY STATE BOARD OF PHARMACY

By: Thomas F.X. Bender, Jr. R.Ph.
Thomas F.X. Bender, R.Ph.
President

I have read the within Order and understand its terms. I consent to the entry of this Order by the New Jersey Board of Pharmacy.

John W. Kakowski, R.Ph.

Agreed as to the monitoring and reporting requirements of this Order on behalf of the Professional Assistance Program

Louis E. Baxter, Sr., M.D., FASAM
Medical Director
Professional Assistance Program
Dated: